



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,173	02/27/2004	Robert J. Lowles	PAT 53955-2 US	4903

26123 7590 08/19/2009  
BORDEN LADNER GERVAIS LLP  
Anne Kinsman  
WORLD EXCHANGE PLAZA  
100 QUEEN STREET SUITE 1100  
OTTAWA, ON K1P 1J9  
CANADA

EXAMINER
----------

MEHRPOUR, NAGHMEH

ART UNIT	PAPER NUMBER
----------	--------------

2617

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

08/19/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ipinfo@blgcanada.com



UNITED STATES PATENT AND TRADEMARK OFFICE

---

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/787,173  
Filing Date: February 27, 2004  
Appellant(s): LOWLES, ROBERT J.

---

\*Geoffrey de Kleine\*\*  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 4/14/08 appealing from the Office action mailed 12/13/07.

**(1) Real Party in Interest**

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

**(2) Related Appeals and Interferences**

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

DE 10133830 A1	CHRISTAL, PHILIP
Germany	02-2003

KR 2002041098	KIM, SJ
KOREA, REPUBLIC KIM, SJ	06-2002

**(9) Ground of Rejection**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

1. **Claims 21, 22**, are rejected under 35 U.S.C. 102(a) as being anticipated by Christal (DE 10134830 A1).

As to claim 21, Christal discloses:

A peripheral device (3) for wireless communication with a mobile device (2) (FIG 2C),  
the peripheral device including:

a battery for receiving and storing a charge (paragraph 30; FIG 1C, 2B,. 2C); and

a charging contact for providing a charge to the battery when placed in direct electrical  
contact with a charging port of a mobile device so as to permit the mobile to charge the  
battery in the peripheral device (paragraphs 14, 30; FIG 1C, 2B, 2C).

As to claim 22, Christal discloses everything as applied in claims 1 and 21 and Christal  
also discloses:

the mobile device is a cellular phone and the peripheral device is a wireless headset for  
interaction with the mobile phone (FIG 2A; paragraphs 32-33).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all  
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-2, 6-9, 11-14, 17-20, 23**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Christal (DE 10134830 A1) in further view of Kim (KR 2002041098A).

As to claim 1, Christal discloses:

A holster (FIG 2A, 11, 8) for receiving and retaining a mobile device (2) in a sleeve (9, 8) and a peripheral device (3), the holster comprising:

a sleeve for retaining the mobile device (paragraph 4)  
, a mating structure (2B, 2C) for releasably retaining the peripheral device such that a charging contact **of** the peripheral device (paragraph 14) is in direct physical and (19) electrical contact with the mobile device retained in the sleeve (paragraphs 10, 28, and 32-33), the holster being capable of accommodating the charging contact extending from the peripheral device (FIG 2B, 2C; paragraphs 32-33). Christal also discloses the charging contacts for the headset provides a charge to the headset when placed the holster (paragraph 31). Christal also discloses when charging, the headset is in direct electrical contact with the mobile device (paragraphs 31, 33). However, Christal fails to disclose to permit the mobile device to charge a battery in the peripheral device through a charging contact extending from the peripheral device. The Examiner contends this feature was old and well known in the art at the time of invention as taught by Kim. In an analogous art, Kim discloses an apparatus and a method to charge a battery of a wireless headset by a battery of a portable phone without using a charger of the headset (purpose - human translation, paragraph 1). Kim also discloses the cordless headset battery (40) can be charge through the connector (30) with the cellular-phone

battery part (20) (paragraph 14, Fig 2). Kim also discloses the connector (30) attaches the cellular phone and cordless headset (paragraph 14, FIG 2), reading on claimed "to permit the mobile device to charge a battery in the peripheral device through a charging contact extending from the peripheral device." Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to require the holster, mobile device, and peripheral device, all disclosed by Christal, to permit the mobile device to charge a battery in the peripheral device through a charging contact extending from the peripheral device, as taught by Kim, to enable the peripheral device to be charged when accompanied with a mobile device.

As to claims 2, 23, Christal and Kim teach everything as applied in claim 1 and Christal also discloses: the holster mating structure connects with the peripheral device mating structure to releasably retain the peripheral device so that a charging port of the mobile device is in direct physical and electrical contact with the charging contact of the peripheral device to allow the mobile device to charge the battery in the peripheral device (FIG. 2A-2C).

As to claim 6, Christal and Kim teach everything as applied in claims 1-2 and Christal also discloses:

a base for supporting the mobile device in the sleeve, the base having a aperture for receiving the charging contact and allowing it to make electrical contact with the

charging port (FIG 1A, 2A).

As to claim 7, Christal and Kim teach everything as applied in claim 1 and Christal also discloses:

the holster mating structure is selected from the group consisting of a retaining bracket, a magnet, a tab, a latch, a flange, a hook, a clamp, a friction fit, and a tongue and groove (FIG. 1A, 2A).

As to claim 8, Christal and Kim teach everything as applied in claim 1 and Christal also discloses:

the mobile device is a cellular phone and the peripheral device is a wireless headset for interaction with the mobile phone (FIG 2A; paragraphs 32-33).

As to claim 9, Christal and Kim teach everything as applied in claim 1 and Christal also discloses:

the mobile device communicates with peripheral device on a Bluetooth communication channel (paragraph 30).

As to claim 11, Christal discloses:

A holster (FIG 2A, 11, 8) for receiving and retaining both a peripheral device (3) and a mobile device (2), the mobile device being retained in a sleeve (9, 8), the holster comprising:



a mating structure (2B, 2C) for releasably retaining the peripheral device in direct (19) electrical contact with the mobile device when retained in the sleeve (paragraphs 10, 28, and 32-33). Christal also discloses the charging contacts for the headset provides a charge to the headset when placed the holster (paragraph 31). Christal also discloses when charging, the headset is in direct electrical contact with the mobile device (paragraphs 31, 33). However, Christal fails to disclose to permit the mobile device to charge a battery in the peripheral device. The Examiner contends this feature was old and well known in the art at the time of invention as taught by Kim. Kim discloses an apparatus and a method to charge a battery of a wireless headset by a battery of a portable phone without using a charger of the headset (purpose - human translation, paragraph 1). Kim also discloses the cordless headset battery (40) can be charge through the connector (30) with the cellular-phone battery part (20) (paragraph 14, Fig 2). Kim also discloses the connector (30) attaches the cellular phone and cordless headset (paragraph 14, FIG 2), reading on claimed "to permit the mobile device to charge a battery in the peripheral device. "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to require the holster, mobile device, and peripheral device, all disclosed by Christal, to permit the mobile device to charge a battery in the peripheral device through a charging contact extending from the peripheral device, as taught by Kim, to enable the peripheral device to be charged when accompanied with a mobile device.

As to claim 12, Christal discloses:

A system (FIG 1A, 2A) for mobile communications comprising:

a mobile device (2) for connecting to a network and providing voice services having a charging port (FIG 2C, paragraph 29);

a peripheral device (3) for wireless communication with the mobile device, the peripheral device having both a battery and a charging contact (paragraph 30); and a holster (11,8) for receiving and retaining both the peripheral device and the mobile device so that the charging port and charging contact are in direct electrical contact (FIG 1A, 2A, 2C; paragraphs 28, and 32-33). Christal also discloses the charging contacts for the headset provides a charge to the headset when placed the holster (paragraph 31). Christal also discloses when charging, the headset is in direct electrical contact with the mobile device (paragraphs 31, 33). However, Christal fails to disclose to allow the mobile device to charge the battery in the peripheral device. The Examiner contends this feature was old and well known in the art at the time of invention as taught by Kim. Kim discloses an apparatus and a method to charge a battery of a wireless headset by a battery of a portable phone without using a charger of the headset (purpose - human translation, paragraph 1). Kim also discloses the cordless headset battery (40) can be charge through the connector (30) with the cellular-phone battery part (20) (paragraph 14, Fig 2). Kim also discloses the connector (30) attaches the cellular phone and cordless headset (paragraph 14, FIG 2), reading on claimed "to permit the mobile device to charge the battery in the peripheral device." Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to require the system, disclosed by Christal, to permit the mobile device to charge a

battery in the peripheral device through a charging contact extending from the peripheral device, as taught by Kim, to enable the peripheral device to be charged when accompanied with a mobile device.

As to claim 13, Christal and Kim teach everything as applied in claim 12 and Christal also discloses:

the holster includes a sleeve for releasably retaining the mobile device (FIG 1A).

As to claim 14, Christal and Kim teach everything as applied in claim 12 and Christal also discloses:

the holster includes a mating structure for electrically connecting the charging contact and the charging port when both the mobile device and the peripheral device are retained in the holster (FIG. 2B-2C).

As to claim 17, Christal and Kim teach everything as applied in claims 1 and 12 and Christal also discloses: **mobile device** includes a controller for regulating charging (paragraphs 28, 32-33).

As to claim 18, Christal and Kim teach everything as applied in claims 12-13 and Christal also discloses:

the holster further includes a base for supporting the mobile device in the sleeve, the base having an aperture for receiving the charging contact and the allowing it to make

electrical contact with the charging port (FIG 1A, 2A).

As to claim 19, Christal and Kim teach everything as applied in claims 12 and 14 and Christal also discloses:

the mating structure is selected from the group consisting of a retaining bracket, a magnet, a tab, a latch, a flange, a hook, a clamp, a friction fit, and a tongue and groove (FIG. 1 A, 2A).

As to claim 20, Christal and Kim teach everything as applied in claim 1 and Christal also discloses:

the mobile device is a cellular phone and the peripheral device is selected from a group including a wireless headset for interaction with the cellular phone, a wireless headset for interaction with the cellular phone over a Bluetooth communication channel, and a camera for interaction with the mobile phone (FIG 1A, 2A).

3. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Christal and Kim as applied to claim 1 above, and further in view of Grivas et al (U.S. 2004/0116161 A1).

As to claim 10, Christal and Kim everything as applied in claim 1; however, neither Christal nor Kim teaches the peripheral device is a Camera for interaction with the

mobile device. The Examiner contends this feature was old and well known in the art at the time of invention as taught by Grivas. In an analogous art, Grivas teaches an accessory 111, such as a camera, coupled to and may be powered from the wireless communication unit's battery (paragraph 12; Figure 1). Grivas also teaches the controller may also be coupled via a port 224, such as a USB, serial, parallel, or the like port, to an accessory device as well as accessory power supply 225 that is powered from the battery 211 where the controller again controls whether current is provided or when current into the supply is interrupted (paragraph 17), reading on claimed "the peripheral device is a camera for interaction with the mobile device." Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to require the holster, mobile device, and peripheral device, taught by Christal and Kim, the peripheral device is a camera for interaction with the mobile device, as taught by Grivas, in order for the mobile user to utilize a camera without undue battery consumption of the mobile device while still providing operating power to the camera for appropriate system performance.

#### **(10) Response to Argument**

##### ***Response to Arguments***

Applicant's arguments filed 8/22/08 have been fully considered but they are not persuasive.

Appellant argues (pages 13-15 of the Brief) regarding **claim 21**,

"Christal fails to teach or suggest at least "an integral charging contact for providing a charge to the battery when placed in direct physical and electrical contact with a charging port of the mobile device so as to permit the mobile device to charge the battery in the peripheral device" as recited in claim 21 "; and

"Moreover, the Examiner admits that "Christal fails to disclose to permit the mobile device to charge a battery in the peripheral device through a charging contact extending from the peripheral device" (see Final Action dated December 13, 2007, at pages 3-4, emphasis added). Therefore, if Christal fails to disclose a mobile device to charge a peripheral device through a charging contact extending from the peripheral device, it clearly follows that Christal cannot teach or suggest a peripheral device including a battery and "an integral charging contact for providing a charge to the battery when placed in direct physical and electrical contact with a charging port of the mobile device so as to permit the mobile device to charge the battery in the peripheral device" as recited in claim 21."

In response, the Examiner counters with the fact that applicant is reading their claim too narrowly. The Examiner asserts that Christal has three parts, i.e., a peripheral device for communication with the mobile device, the mobile device itself and an intermediate part. Call the intermediate part a "holster" for the peripheral device. The Office viewpoint is, when the intermediate part is connected to the mobile device, the entire combination then becomes the "mobile device", i.e., just because we attach the intermediate part to the mobile device, does not mean that the mobile device is now tethered to a particular port, base station, access point, etc. The combination of the disclosed mobile telephone connected to a holster does not magically become non-mobile. Therefore, when the peripheral is inserted within the holster of the intermediate part, **that is connected to the mobile telephone**, it comes into direct electrical and physical connection with the mobile device's charging port for the peripheral. The combination of telephone and holster comprises "a mobile device". Thus when the headset is mounted within the holster it **is in direct physical and electrical contact**.

With respect to the argument that the Examiner admitted Christal fails to teach permitting the mobile device to charge a battery in the peripheral, claim 1 further states that the mobile device is retained in a sleeve and the mobile device provides direct physical and electrical contact with the peripheral, Appellant is attempting to merge the Office's position with respect to one set of claims to support their position with respect to claim 21. The examiner's position is not inconsistent with the position set forth with respect to claims 1-2,6-9,11-14,17-20 and 23. The breadth of claim 21 permits the examiner to read the "sleeve" or "holster" in combination with the mobile telephone, as "the mobile device".

Appellant's next set of arguments span pages 16-18 of the Brief under the heading of "**Claim 1**". However, Appellant seems to bounce around and argue claims 1, 12, dependent claims 2, 6-9 and 20 and then jumping into claim 10.

In response to the Appellant argument regarding **claim 1**, that "the Examiner has omitted the feature that the charging contact [is] integral with the peripheral device" as recited in claim 1 when mapping the elements recited in the claim to the cited prior art reference;"

What is it that Appellant's trying to argue here? Stepping back and considering the references. Clearly the average layman would understand that the disclosure for Christal which teaches the electrical connection of the peripheral device 3 (as set forth in the rejection by the Examiner) "...in order to enable the batteries to be recharged by a charger", then the peripheral device 3 must have charging contacts **integral with the**

**peripheral device to permit said recharging.** Christal did **not** teach recharging the battery of the peripheral device via inductance or other non-electrical contact means. If there is an **electrical connection** between the holster and the peripheral device for recharging, then clearly the peripheral device **must** have an **integral charging contact**. Without said contact, the recharging of the batteries could not take place.

Appellant's argument with respect to claim 12 on page 17 of the Brief is considered moot given that this argument is a mere opinionated statement.

In response to the applicant's argument on page 18 of the Brief regarding **claim 10**, "the Christal and Kim references fail to teach or suggest "a mating structure for releasably retaining the peripheral device such that a charging contact integral with the peripheral device is in direct physical and electrical contact with the mobile device" as recited in claim 1. The Grivas reference fails to cure the deficiencies of the Christal and Kim references. In particular, the Grivas reference teaches the use of an intermediary connector between a camera peripheral device and a mobile device, as clearly shown in Figure 1. It is therefore submitted that the claim 10 fully distinguishes over the cited Grivas reference when taken alone and when combined with the cited Christal and Kim references;

The Examiner contends that they have shown how the combination of Christal and Kim satisfies the previous limitations of a "mobile device", releasable retention of the peripheral and the integral electrical contact. The only additional feature that claim 10 introduces is the suggestion that the peripheral device could be a camera. The Examiner contends that, Grivas teaches an accessory 111, such as a camera, coupled to and may be powered from the wireless communication unit's battery (paragraph 12;



Figure 1). Grivas also teaches the controller may also be coupled via a port 224, such as a USB, serial, parallel, or the like port, to an accessory device as well as accessory power supply 225 that is powered from the battery 211 where the controller again controls whether current is provided or when current into the supply is interrupted (paragraph 17), reading on claimed "the peripheral device is a camera for interaction with the mobile device."

Appellant next argues (pages 19, bridging page 20 of the Brief) **claim 11**.

Appellant reargues previously addressed points with respect to a peripheral device being in direct physical and electrical contact with a mobile device. The examiner has provided the Office's position on this issue with respect to the explanation of claims 21 and 1 above. The expressed position is hereby referenced and relied upon. Appellant does not provide any further argument or address any additional claimed features and thus no further response is deemed necessary.

Appellant next argues (pages 20-22 of the Brief) **claims 12-14, 17-19**.

In response to the Appellant argument regarding **claim 12**, Appellant again repeats their position that the examiner has failed to address the "direct physical and electrical contact" and "integral charging contact" limitations. No other claim limitations are addressed. Dependent claims 13, 14 and 17-19 are grouped together with

independent claim 12 for the same arguments. The Office has set forth its position with respect to the aforementioned limitations and maintains that position.

Appellant finally argues (pages 24-28 of the Brief) **prosecution history**.

In response, the Office has maintained their position and Appellants have not appreciated the breadth of their claim language. Throughout their Brief, Appellants have argued the same two points. The Office has maintained their position and explained the breadth of that language. Appellant has not argued other claim limitations.

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Conferees:

/Naghmeh Mehrpour/

Primary Examiner, Art Unit 2617

Application/Control Number:  
10/787,173  
Art Unit: 2617

Page 19

**/Dwayne D. Bost/**

**Supervisory Patent Examiner, Art Unit 2617**

**/NICK CORSARO/**

**Supervisory Patent Examiner, Art Unit 2617**

**Borden Ladner Gervais LLP**

**1200 Waterfront Centre**

**200 BmTard Street, P.O. Box 48600  
Vancouver, British Columbia V7X 1T2  
CANADA**

**Tel:**

**(604) 687-5744**

**Fax:**

**(778) 329-0752**

**E-mail: [ipmailvancouver@blgcanada.com](mailto:ipmailvancouver@blgcanada.com)**